Wash State Health Care Authority

2025-27 Regular Budget Session

Policy Level - GC - Non-Native SUD at Tribal Facilities

Agency Recommendation Summary

The Washington State Health Care Authority requests additional financial resources in the 2025-2027 biennium to reimburse tribal facilities at the full Indian Health Services All-Inclusive rate for substance use disorder services provided to Apple Health clients that are not American Indian or Alaskan Native. Currently, the state only pays the Medicaid federal share of the rate and the tribal facilities are expected to cover the "state" share.

Fiscal Summary

Fiscal Summary *Dollars in Thousands*	Fiscal Years		Biennial	Fiscal Years		Biennial
	2026	2027	2025-27	2028	2029	2027-29
Operating Expenditures						
Fund 001 - 1	$23,635	$47,272	**$70,907**	$47,272	$47,272	**$94,544**
Total Expenditures	**$23,635**	**$47,272**	**$70,907**	**$47,272**	**$47,272**	**$94,544**

Decision Package Description

Problem Statement

The federal Centers for Medicare and Medicaid Policy (CMS) contends that the Washington State Health Care Authority (HCA) is out of compliance with federal policy. HCA currently pays Indian Health Services (IHS) providers only the federal share for outpatient substance use disorder (SUD) treatment provided to non- American Indian/Alaskan Native (non-AI/AN) Apple Health clients. Since 1998 - before the Apple Health medical assistance program was administered by HCA - the state has required tribal governments to cover the non-federal match costs for all non-AI/AN Medicaid reimbursements for outpatient SUD treatment services

In recent discussions with CMS, the federal agency has indicated that the non-federal portion of the IHS All Inclusive Rate (AIR) for SUD services provided by tribal facilities to non-AI/AN clients must be paid using the **state's own funds - not Tribal funds** - unless the Tribes expressly agreed to cover the match liability. CMS contends that the Tribes were not given a true choice and that the existing process can only continue if the Tribes agreed to cover the non-federal share. The Tribes indicate they were not consulted appropriately and did not agree to the current methodology when it went into effect in the 1990's. HCA does not have historical documentation showing agreement from the Tribes, or documentation demonstrating formal government-to-government proceedings.

Proposed Solution

HCA requests $70,907,000 GF-State in the 2025-2027 biennium to begin to pay the full IHS AIR for non-AI/AN SUD services provided at Tribal Facilities, which includes not only the federal share (as determined by the appropriate Federal Medical Assistance Percentage (FMAP) for each non-AI/AN client encounter), but also the "state" share which the Tribes had been historically covering.

Background Information

For outpatient SUD services provided by tribes to AI/AN clients, there is no tribal match requirement as the federal government pays the entire cost. But Tribes have a federal right to provide services to non-AI/AN clients as well. Since 1998, the "one facility, one rate" rule gives them the right to the full IHS AIR for all encounters regardless of a client's AI/AN status. At that time, the state could not afford the state match, so if the Tribes wanted reimbursement for non-AI/AN encounters, the Tribes must cover the non-federal share through an Intergovernmental Transfer (IGT) process. This process required them to pay the Department of Social and Health Services for the non-federal share, which would later be paid back to them, along with the federal share.

The IGT process turned into a less administratively burdensome Certified Public Expenditure (CPE) process in 2019. In the CPE process,

Tribes attest to the availability of funding to cover the state match requirement, rather than having to actually pay the state their portion.

Given a choice, it is a certainty that the Tribes will not agree to continue to absorb the non-federal portion of the costs, which means the state must begin to cover it.

Anticipated Outcomes

A full encounter payment to the Tribes for non-AI/AN SUD encounters would bring HCA in full compliance of both federal rules where the state honors the "one facility, one rate" rule, and the Tribes' sovereign right to decide who receives services through their health system. This also shows good faith that the state is a partner in the current opioid crisis the Tribes, and the State of Washington, are facing.

Assumptions and Calculations

Expansion, Reduction, Elimination or Alteration of a current program or service:

This is an expansion of payable services covered by Washington State.

Detailed Assumptions and Calculations:

The fiscal impact analysis of the proposed policy change assumes an implementation date of January 1, 2026. The fiscal impact is estimated as the difference between a calculated total AIR expense and the reported federal portion. Estimates were calculated based on accepted managed care (MC) encounters and fee-for-service (FFS) paid claims with paid dates in calendar year 2023. Calculations account for AIR differences between non-residential treatment and two rate classes of residential treatment.

Managed Care

The federal share of the AIR is estimated as the total recorded expenditure for relevant accepted encounters. The total AIR expense is estimated as the count of non-zero paid T1015 procedure codes reported, multiplied by the appropriate AIR. Values are scaled by the ratio between calendar year 2024 rates and the rate in effect at the time of the service.

For MC encounters reported as sub-capitated payments, the federal portion of the service cost was estimated using either the average paid amount for the procedure code reported by plan, region, and year or the amount that would have been paid if the claim was processed FFS.

Fee-for-Service

The federal share of the AIR is estimated as the total recorded expenditure for relevant claims. The total AIR expense is calculated as the total recorded expenditure divided by the federal match percentage associated with the relevant Recipient Aid Categories (RACs). Values are scaled by the ratio between calendar year 2024 rates and calendar year 2023 rates.

Workforce Assumptions:

This change will not increase HCA Workforce.

Historical Funding:

Not applicable.

Strategic and Performance Outcomes

Strategic Framework:

This aligns with HCA's strategic plan in the following ways:

- People First: This change will enable HCA to put the best interests of the people we serve first by correcting a policy decision which has become out of compliance with current CMS policy pertaining to Tribes;
- Diversity & Inclusion: This policy change will allow tribes to continue and possibly expand substance use disorder programs within Washington State, addressing the significant need for treatment options particularly within communities disproportionately impacted;
- Innovation: This policy change will bring HCA in alignment with current CMS policy and reflect the partnership Washington State has with the 29 Tribes that precede the formation of Washington State; and
- Stewardship: This will enable HCA to ensure policy within the Agency is in alignment with current CMS policy and obligation for government-to-government relationships with our Tribal partners.

Performance Outcomes:

A policy that is in compliance with current CMS guidelines will result in avoidance of liability and improved government-to-government relationships with our tribal partners.

Equity Impacts

Community Outreach and Engagement:

By having a policy to pay the State share of SUD treatments for non-AI/AN clients at Tribal Facilities HCA addresses a concern brought forward by tribes.

Disproportional Impact Considerations:

This policy change will address the disproportional impact on tribes who have provided services for the non-AI/AN population. Recognizing the tremendous contribution Tribal healthcare providers have played in the fight against substance use disorder. Correcting a policy that will properly reimburse IHCPs for the work they have been doing.

Target Communities and Populations:

This change targets one of the most vulnerable populations within our State those suffering from substance use disorder, including significant loss of life as well as increasing funding to Indian Health Care Providers.

Community Inputs and Incorporation:

This request is addressing a concern that Washington state Tribal Facilities have brought forward.

Other Collateral Connections

HEAL Act Agencies Supplemental Questions

Not applicable.

Puget Sound Recovery:

Not applicable.

State Workforce Impacts:

Not applicable.

Intergovernmental:

This policy change will improve government to government relations with the federally recognized 29 tribes.

Stakeholder Impacts:

Not applicable.

State Facilities Impacts:

Not applicable.

Changes from Current Law:

Not applicable.

Legal or Administrative Mandates:

CMS requires the state pay the state share of costs, considering the lack of consent from the Tribes.

Governor's Salmon Strategy:

Not applicable.

IT Addendum

Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?

No

Objects of Expenditure

Objects of Expenditure *Dollars in Thousands*	Fiscal Years		Biennial	Fiscal Years		Biennial
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Obj. N	$23,635	$47,272	**$70,907**	$47,272	$47,272	**$94,544**

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